

Superseded 5/10/2016

73-4-9 Failure to file statement -- Relief.

The filing of each statement by a claimant shall be considered notice to all persons of the claim of the party making the same, and any person failing to make and deliver such statement of claim to the state engineer or the clerk of the court within the time prescribed by law shall be forever barred and estopped from subsequently asserting any rights, and shall be held to have forfeited all rights to the use of the water theretofore claimed by him; provided, that any claimant, upon whom no other service of said notice shall have been made than by publication in a newspaper and as required in Section 45-1-101, may apply to the court for permission to file a statement of claim after the time therefor has expired, and the court may extend the time for filing such statement, not exceeding six months from the publication of said notice; but, before said time is extended, the applicant shall give notice by publication in a newspaper having general circulation and as required in Section 45-1-101 on such river system or near the water source to all other persons interested in the water of such river system or water source, and shall make it appear to the satisfaction of the court that during the pendency of the proceedings he had no actual notice thereof in time to appear and file a statement and make proof of his claim; and all parties interested may be heard as to the matter of his actual notice of the pendency of such proceedings.